

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **9/06/2011** has been entered.
2. The following is a **Final office action** on merits in response to a communication received on **9/06/2011**.

Acknowledgement

3. Claim **Status**:
 - ❖ (previously) **cancelled** claims: **1-19** and **24-37**
 - ❖ **Newly added** claims: **46-50**
 - ❖ **Amended** claims: **20, 21** and **38-39**
 - ❖ **Pending** claims : **20-23** and **38-50**

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claims 20-23, 38-50 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 20-21 and 38-39 the recitations, "populating, ... , a list of first order type alternatives consisting of only order type alternatives that are supported by the first order destination" are not found in specification or original claims. Therefore, these are treated as new matters.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 47-48** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the claims 47-48, the recitations, "The method of claim 46 wherein **the at least one order parameter** selection comprises **at least one of a side order parameter, a price order parameter**, ... and The method of claim 47 wherein **the at least one order parameter** selection comprises the side order parameter, the price order parameter, ..." are not clear and indefinite. Proper clarifications are needed.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 20–23, 38–50** are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Himmelstein** (2002/0038278) in views of **Gilbert** et al (2003/0154152) and **Russo** (2004/068458).

Claims 1–19 (Cancelled)

As per claims 20 and 38, Himmelstein discloses a processor-implemented method comprising:

receiving, via a processor, a user defined section of a first order destination alternative from an order destination menu, the first order destination alternative representing a first order destination; populating, via the processor, a list of first order type alternatives consisting of only order type alternatives that are supported by the first order destination (**Abstract, Fig.1** and para 0050–0052; via barter website 106 or pull down menus 507...).

displaying, via the processor, on a display screen of a computer a first order type menu that includes only the populated list of first order type alternatives consisting of order type alternatives that are supported by the first order destination (**Fig.1**; via display screen of computers and **para** 0050–052; via barter website **106** or pull down **menus 507** and also **para** 0147; via inherently destination at NYSE and the NASDAQ market);

[receiving via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination];

[determining via the processor, based at least in part of the second order destination alternative selected by the user, a list of at least one order type alternative consisting of only order type alternatives that are supported by the second order destination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and displayed as part of a second order type menu that includes only the order type alternatives from the determined list of second order type alternatives that are supported by the first order destination]; and

displaying via the processor on said display screen of said computer the second order type menu that is different from the first order type menu and reflecting different order types supported by the second order destination associated with the second order destination alternative (**para** 0052, lines 12; via an array of pull down menus **507** for selection of second order type menu different from first order type);

[wherein:

the first order destination and the second order destination are at least one of a securities exchange, a market maker, an ECN, and a trading market place; and order type alternatives included in both said first and second order type **menus** include a market order type and a limit order type].

Himmelstein does not explicitly disclose the step of receiving via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination.

However, **Gilbert** being in the same field of invention discloses the steps of receiving via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination (**Abstract**, Figs 1-6+, para 0006+; via two sided market places, where a trader places one order and places second order based on the execution of the first order ...).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** to include the features mentioned by **Gilbert** to facilitate to enable customization of the graphical interfaces to a trader's preference, setting controls are provided ... to set preferred order type ... item type ... is displayed.

Himmelstein does not explicitly disclose the step of determining via the processor, based at least in part of the second order destination alternative selected by the user, a list of at least one order type alternative consisting of only order type alternatives that are supported by the second order destination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and displayed as part of a second order type menu that includes only the order type alternatives from the determined list of second order type alternatives that are supported by the first order destination

However, **Russo** being in the same field of invention discloses the steps of determining via the processor, based at least in part of the second order destination alternative selected by the user, a list of at least one order type alternative consisting of

only order type alternatives that are supported by the second order destination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and displayed as part of a second order type menu that includes only the order type alternatives from the determined list of second order type alternatives that are supported by the first order destination (**para** 0229-0242; via Three options and Four mode of operation with Machine 1, specifically in **para** 0239-0241; via order destinations [NYSE, NASDAQ and AMEX] and user of the machine with options to add NYSE Stock Symbol or change destinations and alternative types of order by setting **limit order** or trade).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and include the features mentioned by **Russo** to facilitate a virtual stock market that fits in the 'user' of the machine's pocket [i.e. the stock market in the pocket] with displays depicting around the clock, live, real time world wide economic data onto the viewing screen [window **4G**] to easy play with Menus for Symbol, destination and order types.

Himmelstein does not explicitly disclose further that the first order destination and the second order destination are at least one of a securities exchange, a market maker, an ECN, and a trading market place; and order type alternatives included in both said first and second order type menus include a market order type and a limit order type.

However, **Russo** being in the same field of invention discloses that the first order destination and the second order destination are at least one of a securities exchange,

a market maker, an ECN, and a trading market place; and order type alternatives included in both said first and second order type menus include a market order type and a limit order type. (**Abstract** and Figs 1-108 , para 0001-0003 - via viewing user's screen window of the machine's interface; **para** 0010 - via a logic field- provision of two choices; **para** 0240-via choosing another symbol of exchange [**Fig-057**] as destination ; **para** 0233 and 0241 – via a limit order trade [type] and trade per share price [market order type] respectively).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and include the features mentioned by **Russo** to facilitate the user of the machine-1 Dissemination Center then immediately signals ... search engine to trade ...The user ... of NYSE listed CMGI stock ... wait for the results (**para-0234**)

As per claims 21 and 39, Himmelstein discloses a processor-implemented method comprising:

receiving, via Processor, a user defined section of a first order financial instrument trading symbol from a financial instrument trading symbol **menu**, the first financial instrument trading symbol representing a first financial instrument (**Abstract** , and para 0050-0052; via barter website 106 or pull down menus 507...).

populating, via the processor, a list of first order type alternatives consisting of only order type alternatives that support trading in the first financial instrument trading symbol; displaying via the processor on a display screen of a computer a first order destination **menu** that includes only the populated list of first order destination

alternatives consisting of first order destination alternatives that support trading in the first financial instrument that correspond to the first financial instrument trading symbol (**Fig.1**; via display screen of computers and para 00147 inherently destination at NYSE and the NASDAQ market. First instrument trading symbol Aetna Stock-AET at line 21 of para 0041);

[receiving via the processor a user defined selection of a second financial instrument trading symbol from said first financial trading symbol menu, the second financial instrument trading symbol representing the second financial instrument] ;

[determining via the processor, based at least in part on the second financial instrument trading symbol selected by the user, a list of at least one order destination alternative consisting of only order destination alternatives that are supported by the second financial instrument, the at least one order destination alternative being different from the order destinations listed in the first order destination menu displayed as part of a second order destination menu only order destination alternatives from the determined list of second order destination alternatives that are supported by the second financial instrument correspond to the second financial instrument trading symbol]; and

displaying via the processor on said display screen of said computer the second order destination menu that is different from the first order type menu, the second order destination menu being different from the first order destination menu and reflecting different order destination supported by the second financial instrument associated by the second financial instrument trading symbol (**para** 0052, lines 12; via an array of pull

down menus 507 for selection of second order type menu different from first order type.

Second Instrument trading Symbol - the DuPont Option DD also in Fig.5A);

[wherein: at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from at least one of securities, a market maker, an ECN and a trading market place].

Himmelstein does not explicitly disclose the step of receiving via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination.

However, **Gilbert** being in the same field of invention discloses the steps of receiving via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination (**Abstract**, Figs 1-6+, para 0006+; via two sided market places, where a trader places one order and places second order based on the execution of the first order ...).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** to include the features mentioned by **Gilbert** to facilitate to enable customization of the graphical interfaces to a trader's preference, setting controls are provided ... to set preferred order type ... item type ... is displayed.

Himmelstein does not explicitly disclose the step of determining via the processor, based at least in part on the second financial instrument trading symbol selected by the user, a list of at least one order destination alternative consisting of only order destination alternatives that are supported by the second financial instrument, the at least one order destination alternative being different from the order destinations listed in the first order destination menu displayed as part of a second order destination menu only order destination alternatives from the determined list of second order destination alternatives that are supported by the second financial instrument correspond to the second financial instrument trading symbol.

However, **Russo** being in the same field of invention discloses the steps of determining via the processor, based at least in part on the second financial instrument trading symbol selected by the user, a list of at least one order destination alternative consisting of only order destination alternatives that are supported by the second financial instrument, the at least one order destination alternative being different from the order destinations listed in the first order destination menu displayed as part of a second order destination menu only order destination alternatives from the determined list of second order destination alternatives that are supported by the second financial instrument correspond to the second financial instrument trading symbol (para 0229-0242; via Three option and Four mod of operation with **Machine 1**, specifically in para 0239-0241; via order destinations [NYSE, NASDAQ and AMEX] and user of the machine with options to add NYSE Stock Symbol or change destination and alternative types of order by setting limit order or trade).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and include the features mentioned by **Russo** to facilitate a virtual stock market that fits in the 'user' of the machine's pocket [i.e. the stock market in the pocket] with displays depicting around the clock, live, real time world wide economic data onto the viewing screen [window 4G] to easy play with Menus for Symbol, destination or order types.

Himmelstein does not explicitly disclose that at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from at least one of securities, a market maker, an ECN and a trading market place.

However, **Russo** being in the same field of invention discloses that at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from at least one of a securities, a market maker, an ECN and a trading market place (**Abstract** and Figs 1-108 , **para** 0001-0003 - via viewing screen window with users machine's interface; **para** 0010 - via a logic field- provision of two choices; **para** 0240-via choosing another symbol of exchange [**Fig**-057] as destination ; **para** 0233 and 0241 – via a limit order trade [type] and trade per share price [market order type] respectively).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and to include the

features mentioned by **Russo** to facilitate the user of the machine-1 Dissemination Center then immediately signals ... search engine to Trade ... The user ... of NYSE listed CMGI stock ... wait for the results (**para**-0234).

As per claim 22, Himmelstein discloses that the first financial instrument trading symbol represents a first common stock (**para** 0041, line 21; via Aetna Stock symbol-AET, 234); and the second financial instrument trading symbol represents a second common stock (**para** 0041, line 19; via DuPont Stock-DD, 228).

As per claim 23, Himmelstein discloses that the first financial instrument trading symbol represents a common stock (**para** 0041 line 21; via Aetna Stock symbol-AET, 234); and the second financial instrument trading symbol represents an option (**para** 0051, line 12; via the DuPont Option-DD).

Claims 24-37 (canceled).

As per claims 40-41, Himmelstein discloses the method of claim 20, wherein the order destination menu and the first order type menu are adjacent to each other on the display screen, wherein the order destination menu, the first order type menu and second order type menu are pull down menus (**Fig. 5A-D**; via also pull down Menus 507)

As per claim 42, Himmelstein discloses the method of claim 20, further comprising allowing a user to select an action from a set of actions including:

(a) enter order; (b) enter ticket; (c) cancel order; (d) update order; and (e) reload order (**para 0109**; via the system is programmed .. accept, modify or reject the offer).

As per claim 43, Himmelstein discloses the method of claim 21, further comprising displaying financial instrument trading information related to at least one of the first and second financial trading symbols, the instrument trading information concerning financial instrument trading orders (**para 0044**; via Microsoft stock symbol MSFT)

As per claims 44-45, Himmelstein discloses the method of claim 43, wherein the financial instrument trading orders include at least one order to buy or sell a common stock, and the displayed financial instrument trading information includes respective quotations for the first or second financial instrument at a plurality of order destinations (**para 0027+**; website 102).

As per claim 46 (new) Himmelstein discloses the method of claim 20, further comprising:

receiving, via a processor, at least one order type selection; determining, based on the at least one order type selection, additional order parameters; displaying on the display screen the additional order parameters; receiving at least one order parameter selection from the additional order parameters; and executing an order based on at least one of the user defined selection of the first order destination alternative, the user defined selection of the second order destination alternative, the at least one order type selection, and the at least one additional order parameter selection (**Abstract**, Fig 1+ and para 0047+; via barterer selects minimum barter order parameters.

As per claims 47-48 (new) Himmelstein the method of claim 46 wherein the at least one order parameter ~~selection~~ comprises **at least one of a side order parameter**, a price order parameter, a quantity order parameter, an account order parameter, a time in force order parameter and a peg value order parameter, wherein the **at least one order parameter selection** comprises *the side order parameter*, the **price** order parameter, the **quantity** order parameter, the **account** order parameter, the **time in force** order parameter and the **peg value** order parameter (**para 0047 + ...**)

As per claims 49-50 (new) Himmelstein the method of claim 46, further comprising:

determining that at least one ~~additional~~ order parameter is a required order parameter; verifying that the required order parameter contains a ~~valid selection~~; and executing the order when the required order parameter is verified as containing the valid selection, and returning an error message when the required order parameter is not verified as containing the valid selection (**para 0052+; via portfolio is displayed for selection via an array of pull down menu 507 ...**).

Response to Arguments

10. Applicant's arguments with respect to claims **20-23** and **38-50** have been considered but are **moot** in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HATEM ALI whose telephone number is (571)270-3021 and FAX (571)-270-2041[Cc to Examiner]. The examiner can normally be reached on 8.00 to 6.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ALEXANDER KALINOWSKI can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HATEM ALI
Examiner
Art Unit 3691

/HANI M KAZIMI/

Primary Examiner, Art Unit 3691